



City of Marietta Meeting Agenda

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

CITY COUNCIL

William B. Dunaway, Mayor
Annette Paige Lewis, Ward 1
Griffin "Grif" L. Chalfant, Jr., Ward 2
Holly Marie Walquist, Ward 3
Irvan A. "Van" Pearlberg, Ward 4
Rev. Anthony C. Coleman, Ward 5
James W. King, Ward 6
Philip M. Goldstein, Ward 7

Monday, November 9, 2009

7:00 PM

Council Chamber

CALL TO ORDER:

INVOCATION:

Council Member Van Pearlberg, Ward 4

PLEDGE OF ALLEGIANCE:

PRESENTATIONS:

PROCLAMATIONS:

ANNOUNCEMENTS OF GENERAL COMMUNITY INFORMATION BY THE MAYOR, COUNCIL AND/OR CITY MANAGER:

CONSENT AGENDA:

Consent agenda items are marked by an asterisk (*). Consent items are approved by majority of council. A public hearing will be held only for those items marked by an asterisk that require a public hearing (also noted on agenda).

MINUTES:

- * **20090995** **Regular Meeting - September 9, 2009**
Review and approval of the September 9, 2009 regular meeting minutes.
- * **20091190** **Regular Meeting - October 14, 2009**
Review and approval of the October 14, 2009 regular meeting minutes.
- * **20091191** **Regular Meeting - October 26, 2009**
Review and approval of the October 26, 2009 special called meeting minutes.

MAYOR'S APPOINTMENTS:

CITY COUNCIL APPOINTMENTS:

- * **20091130** **Marietta Museum of History Board of Directors**
Appointment of Harlon Crimm to the Marietta Museum of History for a three (3) year term expiring October 31, 2012.

ORDINANCES:**20090944 Z2009-16 John B. Harbour 33 & 37 Garrison Road**

Z2009-16 [REZONING] JOHN B. HARBOUR request rezoning for property located in Land Lots 218 and 219, District 17, Parcel 114 and 21, 2nd Section, Marietta, Cobb County, Georgia and being known as 33 and 37 Garrison Road from R-3 [Single Family Residential 3 units/acre (City)] and R-20 [Single Family Residential (County)] to CRC [Community Retail Commercial (City)]. Ward 3.

*Planning Commission recommends approval
w/ stipulations from the last council
meeting Vote: 5 - 0 - 0*

*** A new stipulation letter has been submitted by the
applicant and is attached.*

*Stipulation: To include a letter dated September 28, 2009 with the added stipulation
that uses not mentioned in the presented plan be restricted.*

PUBLIC HEARING (all parties are sworn in)

20090945 A2009-04 John B. Harbour 33 Garrison Road

A2009-04 [ANNEXATION] JOHN B. HARBOUR request annexation for property located in Land Lot 02190, District 17, Parcel 21 and being known as 33 Garrison Road, 2nd Section, Cobb County, Georgia consisting of 0.78 acres. Ward 3.

Planning Commission recommends approval Vote: 5 - 0 - 0

Stipulation: n/a

PUBLIC HEARING (all parties are sworn in)

20090946 CA2009-06 John B. Harbour 33 & 37 Garrison Road

CA2009-06 [CODE AMENDMENT] JOHN B. HARBOUR in conjunction with the requested annexation of property located in Land Lots 218 and 219, District 17, Parcels 114 and 21, 2nd Section, Marietta, Cobb County, Georgia, and being known as 33 and 37 Garrison Road, the City of Marietta proposes to designate the Future Land Use of said property as MXD (Mixed Use Development). Ward 3.

*Planning Commission recommends approval
Vote: 5 - 0 - 0*

*Motion: Mr. Kinney made a motion to approve the proposal made by the City of
Marietta to designate the Future Lane Use as MXD (Mixed Use Development),
seconded by Mr. Diffley.*

Stipulation: n/a

PUBLIC HEARING (all parties are sworn in)

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- * **20091175 Code Enforcement - 431 Booth Circle**
- An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 431 Booth Circle.
Listed Owner: Diane Corbin
Repeat Violation History: (1) previous case since February 13, 2006.
Certified mail receipt received 10/23/09.
Taxes paid: Yes
PUBLIC HEARING REQUIRED
- * **20091176 Code Enforcement - 1279 W. Booth Road Extension**
- An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 1279 W. Booth Road Extension.
Listed Owner: Michelle Miller
Repeat Violation History: (5) previous cases since September 10, 2007.
Certified mail receipt not received as of 10/30/09.
Taxes paid: Yes
PUBLIC HEARING REQUIRED
Philip M. Goldstein abstaining
- * **20091177 Code Enforcement - 733 Bonnie Dell Drive**
- An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 733 Bonnie Dell Drive.
Listed Owner: Federal National Mortgage Association
Repeat Violation History: None
Certified mail receipt received 10/19/09; not signed by Officer of Federal National Mortgage Association.
Taxes paid: Yes
PUBLIC HEARING REQUIRED
Philip M. Goldstein abstaining
- * **20091179 Code Enforcement - 281 Pam Lane**
- An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 281 Pam Lane.
Listed Owner: Eskew, Jennifer Lynn & Thomas, Eric Sr.
Repeat Violation History: (2) previous cases since April 25, 2006.
Certified mail receipt not received as of 10/30/09.
Taxes paid: Yes
PUBLIC HEARING REQUIRED
Philip M. Goldstein abstaining

20091181 Code Enforcement - 574 Welch Street

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 574 Welch Street.

Listed Owner: Arnold L. Long

Repeat Violation History: (13) previous cases since January 11, 2001.

Certified mail receipt not received as of 10/30/09.

Taxes paid: Yes

PUBLIC HEARING REQUIRED

Philip M. Goldstein abstaining

*** 20091185 Code Enforcement - 1459 James Street**

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 1459 James Street.

Listed Owner: Brewer Edna W.

Repeat Violation History: (4) previous cases since July 30, 1999.

Certified mail receipt received 10/22/09; not signed by owner.

Taxes paid: Unpaid; owes \$818.50 for 2009.

PUBLIC HEARING REQUIRED

Philip M. Goldstein abstaining

*** 20091186 Code Enforcement - 211 Scott Drive**

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 211 Scott Drive.

Listed Owner: Fuller Karen Z.

Repeat Violation History: (2) previous cases since September 25, 2007.

Certified mail receipt received 10/29/09; not signed by owner.

Taxes paid: Yes

PUBLIC HEARING REQUIRED

Philip M. Goldstein abstaining

*** 20091187 Code Enforcement - 221 Scott Drive**

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 221 Scott Drive.

Listed Owner: McMullan Partners LLC

Repeat Violation History: None

Certified mail receipt received 10/19/09; not signed by Registered Agent.

Taxes paid: Yes

PUBLIC HEARING REQUIRED

Philip M. Goldstein abstaining

* **20091189 Code Enforcement - 566 W. Atlanta Street**

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 566 W. Atlanta Street.

Listed Owner: George Sigalos

Repeat Violation History: (4) previous cases since June 23, 2009.

Certified mail receipt not received as of 10/30/09.

Taxes paid: Unpaid, owes \$1590.11 for 2008 & 2009

PUBLIC HEARING REQUIRED

Philip M. Goldstein abstaining

RESOLUTIONS:

CITY ATTORNEY'S REPORT:

* **20091237 Denial of Claim**

Denial of claim of Kim and Lyseenia Johnson.

CITY MANAGER'S REPORT:

MAYOR'S REPORT:

COMMITTEE REPORTS:

1. Economic/Community Development: Grif Chalfant, Chairperson

* **20091143 Home Funds Allocation**

Approval of a Resolution authorizing the reallocation of \$500,000 in (07,08, and 09) HOME program funds to the Cole Street Redevelopment Corporation for the development of 81 senior housing units in the Tower at Dorsey Manor Project.

* **20091144 CDBG-R Stimulus**

Approval of a Resolution authorizing the execution of the FFY' 2009 CDBG-R Stimulus Program Subrecipient Agreement with Cobb County.

2. Finance/Investment: Annette Lewis, Chairperson

* **20091141 Budget Amendment**

Approval of an Ordinance amending the Fiscal Year 2010 Section 8 Fund Budget to appropriate \$73,000 in Administrative Fee reserves to cover one-time purchases of equipment and services to support the Housing Choice Voucher program.

3. Judicial/Legislative: Philip M. Goldstein, Chairperson

20091205 Kennesaw Avenue Design Guidelines

Motion to approve the design guidelines for the Kennesaw Avenue Historic District, as identified on the attached map. **PUBLIC HEARING REQUIRED.**

PUBLIC HEARING (all parties are sworn in)

* **20091142 Theft by Shoplifting**

Approval of an Ordinance amending Section 10-4-150 of the City Code, "Theft by shoplifting" where the subject of the theft was valued at \$300.00 or less.

4. Parks, Recreation and Tourism: Holly Walquist, Chairperson

* **20091154 Georgia Recreational Trails Grant Project Application Approval**

Approval of a Resolution authorizing the submission of a Georgia Recreational Trails Program (RTP) Grant requiring local cash or in-kind match to the Georgia DNR for project funding.

5. Personnel/Insurance: Van Pearlberg, Chairperson

6. Public Safety Committee: Anthony Coleman, Chairperson

7. Public Works Committee: Jim King, Chairperson

* **20091136 Livable Center Initiative Funding Applications**

Approval of Resolutions for Livable Centers Initiatives (LCI) 2010 Funding for the Powder Springs Street Streetscapes and Franklin Road Improvement Phase A.

20091137 East Dixie Avenue Traffic

Motion approving the installation of traffic controlling devices between Sycamore Street and Delk Street.

SCHEDULED APPEARANCES:

UNSCHEDULED APPEARANCES:

OTHER BUSINESS:

* **20091200 Donation of property**

Motion to accept donation of Landscape Easement at 316 Alexander Street - From DJL Marietta Properties for Renaissance District Improvements Project with the following Stipulations:

1. Tract 1 (one) is for Landscape Easement only. Zoning setbacks not affected.
2. Sprinkler system located in Landscape Easement. If damaged during construction, replace with like kind materials.
3. Owners signage not to be blocked by foliage (can relocate signage with owner's permission)

* **20091199 Donation of property**

Motion to accept donations for Fairground Street Improvements:

Temporary Construction Easement at 136 S. Fairground Street and 157 S. Fairground Street - From David Townsend.

Temporary Construction Easement at 180 Woods Dr. From Colleen A. Parker

Temporary Construction Easement at 611 Colonial Cr. From Kenneth Ray Herron with stipulations to replace fence behind wall and remove three Birch trees.

* **20091201 Property Acquisition**

Motion authorizing acquisition of Right of Way at 505 Freyer Dr. from Thomas E. Koch, for the Fairground Street (Allgood Rd. to N. Marietta Pwky.) Project in exchange for the sum of \$16,400.00 with the following stipulations: a new curb cut/driveway apron be located further south of the existing driveway apron at the existing ROW marker between the two dogwood trees.

* **20091206 Property acquisition**

Motion to approve acquisition of temporary construction easement and permanent landscape easement from 244 Roswell Street Condominium Association for the amount of \$18,200.00 along with the installation of crepe myrtles.

* **20091204 Property acquisition**

Motion authorizing acquisition of Right of Way at 550 Franklin Road from Franklin Road Commercial Plaza, LLC for the Franklin Road (South Marietta Parkway to Delk Road) Project in exchange for the sum of \$74,702.50.

* **20091202 Property acquisition**

Motion authorizing acquisition of Right of Way at 620 and 630 Franklin Rd. From Swami Hospitality for the Franklin Rd. (S. Marietta Pwky. to Delk Rd.) Project in exchange for the sums of \$9,000 and \$14,000, respectively, with stipulations:

1. Access must be maintained to Super 8 at all times. Work is to be completed on half of the access at a time.
2. For both parcels, all landscaping that is removed must be replanted with small trees and bushes/hedges.
3. At any place in the Super 8 or Ramada's parking places, when concrete surfaces are damaged, the City will repair or replace to a condition as equal to or better than pre-construction condition.
4. Any parking striping damaged at any place in Super 8's or Ramada's parking places will be repaired or replaced by the City.
5. The owner must be notified at least 24 hours before start of the work.
6. Any equipment not in use shall be removed within 4 hours of any request so as not to inconvenience guests.
7. The City of Marietta shall replant landscaping in the orange areas indicated on the attached drawing.
8. The main Ramada trade fixture sign and the main Super 8 fixture sign shall remain in place and left undisturbed.

* **20091198 Property donations**

Motion to accept donations of driveway easements and temporary construction easement for the 2008 City of Marietta Sidewalks Project.

680 Walnut Dr: Temp Construction Easement - From Kenneth A. and Barbara R. White

63 Whitlock Dr: Temp Construction Easement - From Dean Wardlaw

113 Whitlock Dr: Temp Construction Easement - From Jeremy and Kristen Moffett

133 Whitlock Dr: Temp Construction Easement - From Travis Reed Weeks. Stips: Sprinkler System is not to be disturbed, or repair if relocation is needed. Please call homeowner before construction.

95 Whitlock Dr: Temp Construction Easement - From Anne Yarwood

73 Whitlock Dr: Temp Construction Easement - From Cindi Parris. Stips: Widen driveway for future expansion. Extend apron to 1' south of existing mailbox. See Plat.

634 Walnut Dr: Temp Construction Easement - From Tyler Lee and Christina Ann Morris. Stips: All six dogwood trees to be removed from both sides of driveway.

612 Walnut Dr: Temp Construction Easement - Walter Gresh Jr. Stips: Irrigation system along ROW to be replaced or repaired if disturbed during construction. Please call Mr. Gresh for location of sprinkler head.

153 Whitlock Dr: Temp Construction Easement - From Dr. Dorothy Harrell Brown. Stips: If two sewer cleanouts are to be disturbed/covered over, bring cleanout up to new grade level.

31/41 Whitlock Dr: Temp Construction Easement - From AKM Enterprises

* **20091203 Property acquisition**

Motion authorizing acquisition of Right of Way at 574 Church Street from SPR Enterprises for Church Street at Margaret Avenue median improvements in exchange for the sum of \$6,118.00.

20091245 Property condemnation - 761 Powder Springs Street

Motion to authorize the acquisition of property owned by Wachovia Bank, National Association, 761 Powder Springs Street, on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

20091243 Property acquisition - 761 Powder Springs Road

Motion to Purchase Right of Way at 761 Powder Springs Road from Wachovia in exchange for \$35,800 for the Powder Springs Road Streetscapes Project.
Stipulations:

1. Grantee shall maintain reasonable access to parcel at all times
2. Option with all attachments and exhibits will survive will survive the closing
3. Grantee understands reasonable access to driveways serving Powder Springs Road must be maintained at all times.
4. Grantee will diligently pursue to completion its construction, and will not use any portion of the parcel as a construction staging area, nor store construction vehicles and equipment on the parcel.
5. Pylon sign is to be relocated and re-constructed by owner as a monument style sign meeting Marietta Ordinances.

20091242 Property acquisition - 704 Fairgate Road

Motion to Approve Purchase of Property at 704 Fairgate Road for the purpose of Powder Springs Streetscapes improvements.

704 Fairgate Road from Attic Self Storage in exchange for \$5,700 for the purchase of property to construct permanent and temporary construction easements.

20091241 Relocation of Power Poles by Georgia Power

Motion to Approve Relocation of Power Poles by Georgia Power for Roswell St. (Victory-Cobb Improvements)

Georgia Power Company Poles Relocation from Georgia Power Company.
Stipulation not to exceed \$209,246 under the terms and conditions as accepted by the City Attorney and Public Works Director.

20091240 Property acquisition- 550 Seminole Drive

Motion to Approve Right-of-Way Acquisition for the purpose of Fairground Street Improvements at 550 Seminole Drive

550 Seminole Drive from J.D. Thompson in exchange for \$7,100.

20091138 Bouldercrest Drive at Banks Street Intersection

Request for stop sign based upon sight distance requirements.

Council member Van Pearlberg abstaining

*** 20091235 Certified Results for the November 3, 2009 General Election**

Motion to approve the certified election results for the November 3, 2009 City of Marietta General Election as presented by the Cobb County Board of Elections and Registration.

20091236 Bond Election Results

Resolution declaring the results of a Bond Election held on November 3, 2009; providing for notification of the District Attorney; and for other related purposes.

*** 20091238 Bond Refunding - 2002 and 2008 School Board Bonds and 2007 Public Safety Bonds**

Motion to hire Public Financial Management Inc., as the City's financial advisor and authorize to move forward with refunding the 2002 and 2008 School Board

Bonds and 2007 Public Safety Bonds, as long as combined savings equals at least 3%.

Council member Van Pearlberg abstaining

20091239 Issuance of the Parks Bond

Motion to hire Public Financial Management Inc., as the City's financial advisor for the parks bond placement and authorization to move forward with issuance of the Parks Bond as requested by Mayor Dunaway.

Council member Van Pearlberg abstaining

20091192 BLW Actions of November 9, 2009

Review and approval of the November 9, 2009 actions and minutes of the Marietta Board of Lights and Water Works (BLW).

ADJOURNMENT: